

AMENDED IN ASSEMBLY APRIL 26, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 687

Introduced by Assembly Members Calderon and Florez

February 23, 1999

An act to add Sections ~~17681.1 and 24831.1~~ 17682, 17683, 24832, and 24833 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 687, as amended, Calderon. Income and bank and corporation taxes: percentage depletion.

The Personal Income Tax Law and the Bank and Corporation Tax Law, in conformity to federal income tax laws, allow a deduction for percentage depletion on certain types of depreciable assets including oil and gas wells. Certain limitations on the deduction for percentage depletion of oil and gas wells include a tentative quantity limit, an applicable percentage limit relating to marginal oil and gas properties and a limitation based on taxable income.

This bill would delete or otherwise reduce those limitations, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 17681.1 is added to the Revenue~~

SECTION 1. Section 17682 is added to the Revenue and Taxation Code, to read:

17682. (a) Section 613(a) of the Internal Revenue Code, relating to percentage depletion, is modified to provide that the second sentence thereof shall not apply to so much of the allowance for depletion as is determined under Section 613A(c) for any taxable year beginning after December 31, 1995.

(b) In the case of a transfer after December 31, 1974, of an interest in any proven oil or gas property, Section 613 of the Internal Revenue Code shall apply to the transfer with respect to production of crude oil or natural gas attributable to that interest, and that production shall be taken into account for any computation by the transferee under that section.

SEC. 2. Section 17683 is added to the Revenue and Taxation Code, to read:

17683. (a) Section 613A(c)(1) of the Internal Revenue Code, relating to exemption for certain producers and owners, is modified by increasing "15 percent," as follows:

In the event the average Kern River posting price for 13° (API gravity) crude oil drops below \$12 per barrel (adjusted each year for inflation) for the calendar year, an additional percentage shall be allowed to independent producers only (and shall not be available to royalty owners) as follows:

<i>Annual Average Kern River Posting Price</i>	<i>Additional Percentages</i>
<i>\$11.99/bbl.—\$10.00/bbl.</i>	<i>10.00</i>
<i>9.99/bbl.— 8.00/bbl.</i>	<i>20.00</i>
<i>7.99/bbl. or below</i>	<i>30.00</i>

1 *The average Kern River posting price for 13° (API*
2 *gravity) crude oil shall be deemed to be the*
3 *aggregate daily posting prices of each of the average*
4 *Kern River wellhead prices posted by Chevron,*
5 *Texaco, Mobil and Tosco, or affiliates thereof. In the*
6 *event that any of these entities cease posting for that*
7 *crude oil, a substitute viable poster, if any, shall be*
8 *determined by California's Department of*
9 *Conservation, Division of Oil, Gas and Geothermal*
10 *Resources. That substituted entity shall then be*
11 *included in determining the average posted price*
12 *per the preceding criteria.*

13 *(b) Section 613A(c)(3)(B) of the Internal Revenue*
14 *Code, relating to tentative quantity, is modified to read*
15 *as follows:*

16 *(B) For purposes of subparagraph (A), the tentative*
17 *quantity is 20,000 barrels, which quantities may be*
18 *allocated to any of the taxpayer's properties up to,*
19 *but not exceeding, 100 percent of actual production.*

20
21 *(c) Section 613A(d)(1) of the Internal Revenue Code,*
22 *relating to limitation based on taxable income, is modified*
23 *to read as follows:*

24 *(1) The deduction for the taxable year attributable*
25 *to the application of subsection (c) shall not be*
26 *limited except that deduction shall not reduce*
27 *taxable income or the alternative minimum taxable*
28 *income below zero, and the unused portion shall be*
29 *eligible for a carryback of 3 years and a carryforward*
30 *of 15 years.*

31
32 *(d) The last two sentences of Section 613A(d)(2)(B)*
33 *of the Internal Revenue Code, relating to retailers*
34 *excluded, are modified to read:*

35 *Notwithstanding the preceding sentence this*
36 *paragraph shall not apply in any case where the*
37 *combined gross receipts from the sale of such oil,*
38 *natural gas, or any product derived therefrom, for*
39 *the taxable year of all retail outlets taken into account*
40 *for purposes of this paragraph do not exceed*

1 \$15,000,000. For purposes of this paragraph, sales of
2 oil, natural gas, or any product derived from oil or
3 natural gas shall not include sales made of those items
4 outside California, if no domestic production of the
5 taxpayer or a related person is exported during the
6 taxable year or the immediately preceding taxable
7 year.

8
9 (e) In the case of transfer after December 31, 1974, of
10 an interest in any proven oil or gas property, Section 613A
11 of the Internal Revenue Code shall apply to the transfer
12 with respect to production of crude oil or natural gas
13 attributable to that interest, and that production shall be
14 taken into account for any computation by the transferee
15 under that section.

16 SEC. 3. Section 24832 is added to the Revenue and
17 Taxation Code, to read:

18 24832. (a) Section 613(a) of the Internal Revenue
19 Code, relating to percentage depletion, is modified to
20 provide that the second sentence thereof shall not apply
21 to so much of the allowance for depletion as is determined
22 under Section 613A(c) for any taxable year beginning
23 after December 31, 1995.

24
25 (b) In the case of a transfer after December 31, 1974,
26 of an interest in any proven oil or gas property, Section
27 613 of the Internal Revenue Code shall apply to the
28 transfer with respect to production of crude oil or natural
29 gas attributable to that interest, and that production shall
30 be taken into account for any computation by the
31 transferee under that section.

32 SEC. 4. Section 24833 is added to the Revenue and
33 Taxation Code, to read:

34 24833. (a) Section 613A(c)(1) of the Internal
35 Revenue Code, relating to exemption for certain
36 producers and owners, is modified by increasing "15
37 percent," as follows:

38 In the event the average Kern River posting price for
39 13° (API gravity) crude oil drops below \$12 per barrel
40 (adjusted each year for inflation) for the calendar

year; an additional percentage shall be allowed to independent producers only (and shall not be available to royalty owners) as follows:

<i>Annual Average Kern River Posting Price</i>	<i>Additional Percentages</i>
<i>\$11.99/bbl.—\$10.00/bbl.</i>	<i>10.00</i>
<i>9.99/bbl.— 8.00/bbl.</i>	<i>20.00</i>
<i>7.99/bbl. or below</i>	<i>30.00</i>

The average Kern River posting price for 13° (API gravity) crude oil shall be deemed to be the aggregate daily posting prices of each of the average Kern River wellhead prices posted by Chevron, Texaco, Mobil and Tosco, or affiliates thereof. In the event that any of these entities cease posting for that crude oil, a substitute viable poster, if any, shall be determined by California's Department of Conservation, Division of Oil, Gas and Geothermal Resources. That substituted entity shall then be included in determining the average posted price per the preceding criteria.

(b) Section 613A(c)(3)(B) of the Internal Revenue Code, relating to tentative quantity, is modified to read as follows:

(B) For purposes of subparagraph (A) the tentative quantity is 20,000 barrels, which quantities may be allocated to any of the taxpayer's properties up to, but not exceeding, 100 percent of actual production.

(c) Section 613A(d)(1) of the Internal Revenue Code, relating to limitation based on taxable income is modified to read as follows:

(1) The deduction for the taxable year attributable to the application of subsection (c) shall not be limited except that deduction shall not reduce taxable income or the alternative minimum taxable

1 income below zero, and the unused portion shall be
2 eligible for a carryback of 3 years and a carryforward
3 of 15 years.

4
5 (d) The last two sentences of Section 613A(d)(2)(B)
6 of the Internal Revenue Code, relating to retailers
7 excluded, are modified to read:

8 Notwithstanding the preceding sentence this
9 paragraph shall not apply in any case where the
10 combined gross receipts from the sale of such oil,
11 natural gas, or any product derived therefrom, for
12 the taxable year of all retail outlets taken into account
13 for purposes of this paragraph do not exceed
14 \$15,000,000. For purposes of this paragraph, sales of
15 oil, natural gas, or any product derived from oil or
16 natural gas shall not include sales made of those items
17 outside California, if no domestic production of the
18 taxpayer or a related person is exported during the
19 taxable year or the immediately preceding taxable
20 year.

21
22 (e) In the case of a transfer after December 31, 1974,
23 of an interest in any proven oil or gas property, Section
24 613A of the Internal Revenue Code shall apply to the
25 transfer with respect to production of crude oil or natural
26 gas attributable to that interest, and that production shall
27 be taken into account for any computation by the
28 transferee under that section.

29 SEC. 5. This act provides for a tax levy within the
30 meaning of Article IV of the Constitution and shall go into
31 immediate effect. However, this act shall apply to taxable
32 and income years beginning on or after January 1, 1999.

33 ~~and Taxation Code, to read:~~

34 ~~17681.1. (a) Section 613A(e)(3)(B) of the Internal~~
35 ~~Revenue Code, relating to tentative quantity, is modified~~
36 ~~to read as follows:~~

37
38 ~~—(B) For purposes of subparagraph (A), there shall~~
39 ~~not be a limit as to the number of barrels.~~

40 —

~~(b) Section 613A(e)(6)(C) of the Internal Revenue Code, relating to applicable percentage, is modified to read as follows:~~

~~—(C) For purposes of subparagraph (A), the term “applicable percentage” means the percentage equal to the sum of ———~~

~~(i) 15 percent, plus~~

~~(ii) 1 percentage point for each whole dollar by which \$20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins[.], plus~~

~~(iii) In the event the average Kern River posting price for 13° (API gravity) crude oil drops below \$12/bbl. for the calendar year, an additional percentage point or fraction thereof shall be allowed as follows, adjusted each year for inflation:~~

Average Kern River Posting Price	Additional Percentage
\$11.99/bbl. — \$11.01/bbl.	—5.00
—10.99/bbl. — 10.01/bbl.	10.00
—9.99/bbl. — 9.01/bbl.	15.00
—8.99/bbl. — 8.01/bbl.	20.00
—7.99/bbl. — 7.01/bbl.	25.00
—6.99/bbl. — 6.01/bbl.	30.00
—5.99/bbl. — 5.01/bbl.	50.00

~~(iv) The average Kern River posting price for crude oil gravity of 13° shall be computed by using the aggregate daily posting prices of each of the California refineries.~~

~~For purposes of this paragraph, the term “reference price” means, with respect to any calendar year, the reference price determined for such calendar year under Section 29(d)(2)(C).~~

~~(e) Section 613(A)(d)(1) of the Internal Revenue Code, relating to limitation based on taxable income is modified to read as follows:~~

~~(1) The deduction for the taxable year attributable to the application of subsection (e) may be carried forward 5 years.~~

~~SEC. 2. Section 24831.1 is added to the Revenue and Taxation Code, to read:~~

~~24831.1. Section 613A(e)(3)(B) of the Internal Revenue Code, relating to tentative quantity, is modified to read as follows:~~

~~(B) For purposes of subparagraph (A), there shall not be a limit as to the number of barrels.~~

~~(b) Section 613A(e)(6)(C) of the Internal Revenue Code, relating to applicable percentage, is modified to read as follows:~~

~~(C) For purposes of subparagraph (A), the term “applicable percentage” means the percentage equal to the sum of _____~~

~~(i) 15 percent, plus~~

~~(ii) 1 percentage point for each whole dollar by which \$20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins[.], plus~~

~~(iii) In the event the average Kern River posting price for 13° (API gravity) crude oil drops below \$12/bbl. for the calendar year, an additional percentage point or fraction thereof shall be allowed as follows, adjusted each year for inflation:~~

Average Kern River	Additional
Posting Price	Percentage
\$11.99/bbl. — \$11.01/bbl.	—5.00
—10.99/bbl. — 10.01/bbl.	10.00
—9.99/bbl. — 9.01/bbl.	15.00
—8.99/bbl. — 8.01/bbl.	20.00
—7.99/bbl. — 7.01/bbl.	25.00

1	6.99/bbl.	=	6.01/bbl.	30.00
2	5.99/bbl.	=	5.01/bbl.	50.00

~~(iv) The average Kern River posting price for crude oil gravity of 13° shall be computed by using the aggregate daily posting prices of each of the California refineries.~~

~~7 For purposes of this paragraph, the term “reference~~
~~8 price” means, with respect to any calendar year, the~~
~~9 reference price determined for such calendar year under~~
~~10 Section 29(d)(2)(C).~~

~~(e) Section 613(A)(d)(1) of the Internal Revenue Code, relating to limitation based on taxable income is modified to read as follows:~~

~~(1) The deduction for the taxable year~~
~~attributable to the application of subsection (c) may~~
~~be carried forward 5 years.~~

~~SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.~~